

2/22/10

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Christine Joyce

From: Roland Bartl
Sent: Friday, February 19, 2010 2:46 PM
To: Manager Department
Subject: CPA - draft article

In light of the meeting that is scheduled with the CPC on Monday, attached please find draft CPA articles for inclusion in the Board of Selectmen's package.

I must emphasize that the CPC has not taken any votes on any of the projects or funding amounts. There appears to be an emerging consensus on some item, not on others. The CPC will meet again on February 25th to make final decisions. Therefore, projects and appropriations shown in the draft article are nothing other than a first draft that reflect the emerging consensus on some items, and the requested amounts on the others where no consensus is apparent at this time.

Also note that the main CPA article contains two items that will have to be split out into separate articles each because they will require a 2/3 majority for the purpose of acquiring real estate:

1. The Caouette land purchase. A draft article is attached. Note that the CPC has not discussed the Caouette land purchase to date since no information was available. This will be on the 2/25 agenda.
2. The test house acquisition and relocation. No separate draft article is available at this time. Note that this is one of the items that do not have an emerging consensus on the CPC. This item will be back on the 2/25 agenda for further in-depth deliberation.

Roland Bartl, AICP
Planning Director
472 Main Street
Acton, MA 01720
(978) 264-9636

ARTICLE CPA
(Majority vote)

**COMMUNITY PRESERVATION PROGRAM
DIRECT APPROPRIATIONS FROM FUND BALANCE
AND FROM THE OPEN SPACE SET-ASIDE**

To see if the Town will vote to appropriate or set aside for later appropriation, and to authorize the Board of Selectmen and the Town Manager to expend or set aside, from the FY 2009 Community Preservation Fund balance as set forth herein, the following amounts for community preservation purposes, with such expenditures to be subject to conditions listed in the Article's Summary and to be further specified in award letters from the Community Preservation Committee, with each item considered a separate appropriation:

| | |
|--|----------------------------|
| FY 2008 COMMUNITY PRESERVATION FUND BALANCE | |
| FY 2009 Community Preservation Fund Revenues | |
| Community Preservation Fund Surcharge Collected in FY 2009 | \$ 715,431.00 |
| State Community Preservation Trust Fund Receipt, October 2009 | \$ 250,473.00 |
| Other FY 2008 Community Preservation Fund Components | |
| Interest Earned in FY 2009 | \$ 54,705.00 |
| Recapture of unspent previous years' project appropriations | \$ 43,164.00 |
| Unencumbered FY 2009 Fund Balance | \$ 571,694.00 |
| Total - FY 2008 Community Preservation Fund Balance | \$ 1,635,467.00 |
| APPROPRIATIONS | |
| Purpose | Recommended Amounts |
| Set Aside Appropriations for | |
| A. Acquisition, creation, and preservation of open space, and its rehabilitation and restoration | \$ 500,000.00 |
| Spending Appropriations | |
| B. Open Space Acquisition and Preservation Fund | \$ 25,000.00 |
| C.1 Open Space Acquisition – Caouette Land Purchase | \$ 300,000.00 |
| D. Development Fund (Sachem Way), Acton Housing Authority | \$ 250,000.00 |
| E. Community Housing Program Fund | \$ 50,000.00 |
| F. Theater III – Preservation Needs Assessment | \$ 27,000.00 |
| G. Windsor Building Restoration | \$ 70,200.00 |
| H. 468 Main Street Windows | \$ 8,000.00 |
| I. Town Hall Windows | \$ 100,000.00 |
| J. Test House Relocation | \$ 56,000.00 |
| K. Bruce Freeman Rail Trail | \$ 115,000.00 |
| Administrative Spending Appropriation | |
| L. A fund for CPC direct expenses and for reimbursing the Town of Acton for administrative services and operating expenses provided in support of the Community Preservation Committee | \$ 48,295.00 |
| Total Recommended Appropriations from FY 2008 Community Preservation Fund Balance | \$ 1,549,495.00 |
| Remaining FY 2008 fund balance | \$ 85,972.00 |

And, whereas Massachusetts General Law, Chapter 44B requires that the Town appropriate for spending, or set-aside for future spending, from the 2008 Community Preservation Fund Revenues at least 10% for open space, 10% for historic preservation, and 10% for community housing.

And, whereas the recommended appropriations for open space, historic preservation, and community housing each meet or exceed 10% of the 2008 Community Preservation Fund Revenues.

And, whereas Town Meeting may vote to delete or reduce any of the recommended amounts.

Therefore, in the event that recommended amounts are deleted or reduced, vote to appropriate as a set-aside for future spending from the FY 2008 Community Preservation Fund Balance the minimum necessary amounts to allocate not less than 10% of the FY 2008 Community Preservation Fund Revenues for open space (\$96,591.00), not less than 10% of the FY 2008 Community Preservation Fund Revenues for historic preservation (\$96,591.00), and not less than 10% of the FY 2008 Community Preservation Fund Revenues (\$96,591.00) for community housing.

And, with respect to Item J of this Article (Test House Relocation), vote to authorize the Board of Selectmen or the Town Manager to acquire by gift and to accept a deed of the Test House for purposes of moving it from its present location at 56 Powder Mill Road to a new location on Town-owned property at 293 Old High Street.

And to appropriate, and to authorize the Board of Selectmen and the Town Manager to expend from the FY 2009 Set-Aside Fund Balance for the acquisition, creation, and preservation of open space as set forth herein, the following amount for open space acquisition purposes with such expenditures to be subject to conditions listed in the Article's Summary and to be further specified in award letters from the Community Preservation Committee:

| | |
|---|----------------------------|
| FY 2009 SET-ASIDE FUND BALANCE FOR THE ACQUISITION, CREATION, AND PRESERVATION OF OPEN SPACE, AND ITS REHABILITATION AND RESTORATION | \$ 1,445,000.00 |
| APPROPRIATIONS | |
| Purpose | Recommended Amounts |
| Spending Appropriations | |
| C2.Open Space Acquisition – Caouette Land Purchase | \$ 700,000.00 |
| Total Recommended Appropriations from FY 2009 Set-Aside Fund Balance for the Acquisition, Creation, and Preservation of Open Space, and its Rehabilitation and Restoration | \$ 700,000.00 |
| Remaining FY 2009 Open Space Set-Aside Fund Balance | \$ 745,000.00 |

, or take any other action relative thereto.

SUMMARY

This article would make appropriations from the Town's Community Preservation Fund. All items listed are recommended by the Community Preservation Committee.

In 2002, the Town adopted the Community Preservation Act, Massachusetts General Laws Chapter 44B (CPA). This established Acton's Community Preservation Fund through a 1.5% annual surcharge on real estate property tax bills with certain exemptions, and made the Town eligible to receive annually additional monies from the Massachusetts Community Preservation Trust Fund, which are added to the Town's Community Preservation Fund. Under the CPA, the Community Preservation Fund may be used to acquire, create and preserve open space; to acquire, preserve, rehabilitate, and restore historic resources; to acquire, create, preserve and support community housing; to acquire, create and preserve land for recreational use; to rehabilitate and restore open space, land for recreational use and community housing that were acquired or created with Community Preservation Funds; and for certain related expenses in support of the foregoing. Community housing is defined as housing for low- and moderate-income individuals and families. This is the seventh year of appropriations from Acton's Community Preservation Fund.

Local adoption of the CPA established the Acton Community Preservation Committee as a statutory committee under the Act (Chapter S of the Bylaws of the Town of Acton). The Community Preservation Committee's duties under the law are to study the needs, possibilities, resources, and preferences of the Town regarding community preservation; to engage in an open and public process of deliberation and consult with other Town Boards and Committees; and to make recommendations to Town Meeting for appropriations from the Community Preservation Fund.

In September 2009, the Community Preservation Committee published its 2010 Community Preservation Plan with guidelines for the submission of projects seeking funding. The Committee received eleven applications for funding of proposed items and projects. The Committee reviewed all proposals, interviewed proponents, and solicited legal opinions on the proposals to help evaluate their eligibility under the Act. (XXX proposals were not recommended for funding). This article represents the Committee's recommendation for appropriations from the available Community Preservation Fund balance for (XXX) projects. All recommended amounts are "up-to" spending limits. Savings, if any, will be available for future appropriations. Some of the projects are recommended at different funding levels than the proponents had originally requested. As in previous years the recommended appropriations include a set-aside for open space. The recommended appropriations leave a remaining Community Preservation Fund balance of (\$85,972.00) that will be available for future Town Meeting appropriations in all eligible funding categories under the Act.

The Act states that Town Meeting may delete or reduce any of the recommended appropriations, but may not add new items or increase the recommended appropriations. The Act also requires that the Community Preservation Committee recommends and that Town Meeting appropriates in each fiscal year the spending of not less than 10% of the annual revenues in the Community Preservation Fund for each of the following: open space (not including land for active recreation purposes); historic resources; and community housing. The Committee may also recommend the eminent domain taking by the Town of interest in real property (not recommended this year), the borrowing of funds for Community Preservation (not recommended this year), and an appropriation of not more than 5% of the annual revenues of the Community Preservation Fund for the Committee's administrative and operating expenses.

A. Open Space Set-Aside

This item adds \$500,000 to the existing set-aside fund from which Town Meeting may appropriate spending in the future for the purpose of acquisition, creation, and preservation of open space. With this appropriation the balance in the open space set-aside fund will be (\$1,945,000).

Recommendations: Board of Selectmen Finance Committee

B. Open Space Acquisition and Preservation Fund

Most open space acquisition prospects require certain initial expenditures to preserve the opportunities before the actual recommendation for a purchase can be brought to Town Meeting. This includes determining the value of the property; evaluating the merits of the transaction; and negotiating and preparing transaction documents. When opportunities to acquire and preserve open spaces arise the Town must be able to react nimbly. The purpose of the proposed \$25,000 Open Space Acquisition and Preservation Fund is to advance such opportunities during the intervals between Town Meetings. The Board of Selectmen, the Community Preservation Committee and the Open Space Committee have prepared a policy that further defines the purposes and uses of this fund should Town Meeting approve this appropriation. The appropriation is recommended subject to the signatures to said policy by the three named entities.

Recommendations: Board of Selectmen Finance Committee

C1 and C2. Open Space Acquisition – Caouette Land

Under M.G.L. Ch.61A, a land owner pays reduced real estate taxes while using the land for agricultural purposes. In exchange the Town obtains the right of first refusal on the land when it becomes for sale. In the fall of 2009 the Town received a notice under Chapter 61A regarding the proposed sale of 15.2 acres of agricultural land at 2 Stow Street and 90 Martin Street in South Acton. Also for sale is a house at 90 Martin Street located on a half acre of non-Chapter 61A land. The Town exercised its right of first refusal subject to Town Meeting appropriation to fund the open space acquisition.

A vote in favor of the purchase will authorize the acquisition in fee of land for open space located at 2 Stow Street, consisting of +/-11.7 acres, and the acquisition of a conservation restriction and public access easement on +/-3.5 acres of additional adjacent land located behind the house at 90 Martin Street.) (together the Caouette Land). This acquisition does not include the house.

This appropriation will authorize the Board of Selectmen or Town Manager to:

- .
- .
- .

The acquired land will be subject to the following uses and restrictions:

- .
- .
- .

Recommendations: Board of Selectmen Finance Committee

D. Development Fund (Sachem Way), Acton Housing Authority

The Acton Housing Authority proposes to construct 12 affordable rental units for families below 80% of the area's median income on 2.5 acres of its property on Sachem Way. This \$250,000 recommended appropriation is designated for the project to be carried out on this site. It will leverage significantly larger funds from the Massachusetts Housing Partnership and the Department of Housing and Community Development to complete the project at an estimated cost of \$4,117,000. In 2009, Town Meeting had appropriated \$152,000 of CPA funding for pre-development planning and design work for this project. Since then the Housing Authority has proceeded with hiring a development consultant and an architect. The Housing Authority has continuously incorporated the neighborhood in its pre-development planning efforts through multiple meetings, questionnaires, and progress updates, and has pledged to continue this practice throughout all development and construction phases. **(It is the Committee's recommendation that the funds in this appropriation be held as pledge and not be released to the Housing Authority until it has obtained pledges or assurances for sufficient funding to complete the project from the State or other funding sources.)**

Recommendations: **Board of Selectmen** **Finance Committee**

E. Community Housing Program Fund

The Acton Community Housing Corporation (ACHC) has requested \$50,000 to replenish the existing Community Housing Program Fund that was first established in 2004 for "the acquisition, creation, preservation, and support of community housing in the Town of Acton" consistent with the Community Housing purposes of the CPA. The Program Fund is used to finance a diversity of affordable housing initiatives and opportunities as they arise, for Acton residents and their adult children, for employees who work for and in the Town, as well as for new residents from outside of Acton. This fund is retained by the ACHC for affordable housing activities that are allowable under the CPA and recommended by the ACHC or any other entity subject to approval by the Board of Selectmen.

With this request, the ACHC proposes to largely continue current programs but also explore and initiate new programs. Current programs include:

- A Condo Buy-Down Program, which is applied to existing housing units. The sellers receive a payment at the time of closing to lower (buy-down) the selling price to a pre-determined affordable level so the unit can be sold to income eligible households. In exchange, a deed restriction is placed on the property that keeps the unit affordable into perpetuity and the unit is added to the Town's Subsidized Housing Inventory.
- A Down Payment and Closing Cost Assistance Program helping first time homebuyers to purchase deed restricted affordable housing units in Acton.
- In partnership with the Acton Housing Authority the ACHC helps buy existing condo units for the Housing Authority's low income rental program, using a combination of CPA, Acton Housing Authority, and housing gift funds.
- Facilitating the resale of existing deed restricted affordable units and funding of minor capital upgrades for such units as part of a resale.

Funds may also be used for sponsorship of first time homebuyer courses, housing needs studies, foreclosure prevention, and credit counseling programs. The ACHC has access to privately funded affordable housing gifts that can be leveraged or supplemented with CPA appropriations to the Community Housing Program Fund.

Recommendations: **Board of Selectmen** **Finance Committee**

F. Theater III – Preservation Needs Assessment

The Acton Community Center, Inc. (Theater III) has requested \$27,000 for a comprehensive professional assessment of the structural integrity of the historic building it owns at 250 Central Street, and for a multi-phase master plan to preserve and restore it. This prominent building in the West Acton Local Historic District is the former Universalist Church built in 1868. The proposed work will include a complete documentation of the present condition of the building and a detailed plan for sequencing the restoration work in a logical and cost effective manner. Theater III has pledged an additional \$3,000 for this project. In 2008, the Town has appropriated \$46,000 to assist with the restoration of most of the windows in the building. This work has been completed. As required under that appropriation the Town now holds a Historic Preservation Restriction on the property.

Recommendations: **Board of Selectmen** **Finance Committee**

G. Windsor Building Restoration

The Town owns the Windsor Building located at 18 Windsor Avenue in the West Acton Local Historic District. The Town built it in 1903 as the West Acton Fire Station. It is presently vacant and in need of restoration work. The recommended appropriation of \$70,200 will preserve the building and restore its historic appearance until a new permanent use for it has been determined. The work will be limited to exterior restoration and preservation. It includes installing reproduction fire engine doors on the front of the building, restoring of windows, installing historically appropriate wooden storm windows, replacing the aging roof, performing necessary exterior carpentry repairs, and applying a new coat of paint.

Recommendations: **Board of Selectmen** **Finance Committee**

H. 468 Main Street Windows Restoration/Replacement

The Town owns the building at 468 Main Street, located next to Town Hall in the Acton Center Local Historic District. The building presently houses the Municipal Properties Department office. The recommended \$8,000 appropriation will replace the non-historical, obsolete, and malfunctioning windows on the second floor with new historically appropriate windows.

Recommendations: **Board of Selectmen** **Finance Committee**

I. Town Hall Windows Restoration

Town Hall is located at 472 Main Street in the Acton Center Local Historic District. It was built in 1864. The windows in the original 1864 portion of the building have never been restored or replaced, only painted. Many panes have the original wavy glass. The windows are still sound, but operate poorly or malfunction due to age, multiple paint layers, and problems with the weights and/or ropes. Aluminum storm windows were added around 1970. They are in poor condition, not

functioning, and historically inappropriate. This \$100,000 recommended appropriation would fund the complete restoration of all windows in the 1864 portion of the building and the replacement of the aluminum storm windows with historically appropriate, operable, wooden storm windows.

Recommendations: **Board of Selectmen** **Finance Committee**

J. Test House Relocation

The Test House stems from the 1800's. It is a small +/-400 square foot building located at 56 Powder Mill Road, and listed on the Acton Cultural Resources Inventory. The current owner has applied for a demolition permit. The demolition is currently on hold giving the Town an opportunity to consider its acceptance as a gift and its preservation in a different location. The building's original location was nearby in the vicinity of the Assabet River Dam at Old High Street, where the American Powder Company had used it to fire test charges of their powder batches from one of its windows. The Test House was moved to its present address in the mid 1900's.

Approval of this \$56,000 appropriation would include the acceptance by the Town as a gift of the building and fund its relocation to a new site on Town-owned land at 293 Old High Street where Old High Street and High Street intersect. The appropriation would also fund the preparation of the new site, a new foundation, a new roof, new siding and trim, carpentry and window repairs, and painting. The more recent addition at the rear of the building would be demolished. It has been suggested that, at its new site, the building could be used for the storage of emergency response equipment.

Recommendations: **Board of Selectmen** **Finance Committee**

K. Bruce Freeman Rail Trail Design Funding

The Bruce Freeman Rail Trail (BFRT) is a 25-mile long multi-use transportation and recreation path project extending from Lowell to Framingham. Phase 1 from Lowell to Route 225 in Westford was completed in 2009. Phase 2A extends from Route 225 on the former Penn Central Railroad right-of-way (now owned by MassDOT) to East Acton, Phases 2B and 2C will run through Concord, and subsequent phases will eventually extend to Framingham. In Acton, the trail will run +/-4.6 miles from the Carlisle town line in North Acton to the Concord line in East Acton. Town Meeting has funded the BFRT with three prior appropriations from the Community Preservation Fund that totaled \$452,000.

Acton has to date expended \$267,252 for the completed 25% engineering design and for grant applications, leaving \$184,748 for further design work. Acton's estimated cost to complete the final 100% design of the trail is \$713,500 based on most recent MassDOT scoping and pricing worksheets. As part of a \$500,000 State enhancement grant received in 2009 for the BFRT, Acton would receive approximately \$464,000 towards the final design cost. For Acton the anticipated shortfall is then approximately \$64,752. This recommended \$115,000 appropriation for the BFRT will cover the shortfall and provide additional funds for a range of acquisition costs including title examinations, appraisals, surveys, and legal support.

MassDOT is on record as stating that it will provide the right-of-way for rail trail purposes by way of a deed, license, or easement to the Town. Currently, the estimated construction cost for the Acton portion stands at \$9-10 million. MassDOT is expected to pay for the construction of the BFRT with Federal Transportation dollars.

Recommendations: **Board of Selectmen** **Finance Committee**

L. Administrative and Operating Expenses

The recommended appropriation, \$48,295, is 5% of the FY 2009 revenues in the Community Preservation Fund as provided in the Act (local surcharge and State trust fund receipts). The funding is to help the Town with administrative and legal expenses incurred in connection with the support of the Community Preservation Committee and Program, and to pay for the Community Preservation Committee's direct expenses such as the annual membership in the Massachusetts Community Preservation Coalition.

Recommendations: **Board of Selectmen** **Finance Committee**

Direct inquiries to: Roland Bartl, AICP, Planning Director
 planning@acton-ma.gov / (978) 264-9636

Selectman assigned: ____: bos@acton-ma.gov